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Counsel for the Charitable Defendants

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**In re:** § **Case No. 19-34054-sgj11**

**HIGHLAND CAPITAL  
MANAGEMENT, L.P.,** § **Chapter 11**

**Debtor** §

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**MARC S. KIRSCHNER, AS** §  
**LITIGATION TRUSTEE OF THE** § **Adversary No. 21-03076-sgj**  
**LITIGATION SUB-TRUST** §  
**Plaintiff,** §

**vs.** §

**JAMES D. DONDERO; MARK A.** §  
**OKADA; SCOTT ELLINGTON; ISAAC** §  
**LEVENTON; GRANT JAMES SCOTT** §

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|                                 |   |
|---------------------------------|---|
| III; FRANK WATERHOUSE; STRAND   | § |
| ADVISORS, INC.; NEXPOINT        | § |
| ADVISORS, L.P.; HIGHLAND        | § |
| CAPITAL MANAGEMENT FUND         | § |
| ADVISORS, L.P.; DUGABOY         | § |
| INVESTMENT TRUST AND NANCY      | § |
| DONDERO, AS TRUSTEE OF          | § |
| DUGABOY INVESTMENT TRUST;       | § |
| GET GOOD TRUST AND GRANT        | § |
| JAMES SCOTT III, AS TRUSTEE OF  | § |
| GET GOOD TRUST; HUNTER          | § |
| MOUNTAIN INVESTMENT TRUST;      | § |
| MARK & PAMELA OKADA FAMILY      | § |
| TRUST – EXEMPT TRUST #1 AND     | § |
| LAWRENCE TONOMURA AS            | § |
| TRUSTEE OF MARK & PAMELA        | § |
| OKADA FAMILY TRUST – EXEMPT     | § |
| TRUST #1; MARK & PAMELA OKADA   | § |
| FAMILY TRUST – EXEMPT TRUST #2  | § |
| AND LAWRENCE TONOMURA IN HIS    | § |
| CAPACITY AS TRUSTEE OF MARK &   | § |
| PAMELA OKADA FAMILY TRUST –     | § |
| EXEMPT TRUST #2; CLO HOLDCO,    | § |
| LTD.; CHARITABLE DAF HOLDCO,    | § |
| LTD.; CHARITABLE DAF FUND, LP.; | § |
| HIGHLAND DALLAS FOUNDATION;     | § |
| RAND PE FUND I, LP, SERIES 1;   | § |
| MASSAND CAPITAL, LLC; MASSAND   | § |
| CAPITAL, INC.; SAS ASSET        | § |
| RECOVERY, LTD.; AND CPCM, LLC,  | § |

**Defendants.**

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**APPENDIX IN SUPPORT OF MOTION TO DISMISS  
AND MOTION FOR MORE DEFINITE STATEMENT**

CLO HoldCo, Ltd. (“CLO HoldCo”), Charitable DAF HoldCo, Ltd. (“DAF HoldCo”), Charitable DAF Fund, L.P. (“DAF Fund”), and Highland Dallas Foundation (“HDF,” together with CLO HoldCo, DAF HoldCo, DAF Fund, and HDF, the “Charitable Defendants”), file this *Appendix* in support of their *Motion to Dismiss and Motion for More Definite Statement*:

| <b><u>Exhibit</u></b> | <b><u>Description</u></b>   | <b><u>Pages</u></b> |
|-----------------------|---|---------------------|
| A                     | Declaration of Louis Phillips                                     | 00001-00005         |
| A-1                   | Relevant Excerpts from Second Amended Service Agreement           | 00006-00018         |
| A-2                   | Termination Notices   | 00019-00020         |
| A-3                   | HarbourVest Claims  | 00021-00074         |
| A-4                   | Settlement Motion, HarbourVest Response, and Settlement Agreement | 00075-00158         |
| A-5                   | Plan and Confirmation Order                                       | 00159-00319         |
| A-6                   | Schedules of Retained Causes of Action                            | 00320-00387         |
| A-7                   | Partial Final Award in Redeemer Arbitration                       | 00388-00449         |
| A-8                   | Omnibus Reply in Support of Rule 2004 Exam                        | 00450-00462         |
| B                     | Dugaboy Note and Payment Schedule                                 | 00463-00465         |

**Respectfully submitted:**

**KELLY HART PITRE**

/s/ Louis M. Phillips

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the forgoing was served through this Court's CM/ECF Service on counsel for the Plaintiff and all Defendants on this March 23, 2022.

/s/ Louis M. Phillips